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DEPT FOR T, VC AND EUR/PRA
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JCS FOR J5/DDGSA
SECDEF FOR OSD(P)/STRATCAP
NAVY FOR CNO-N5JA AND DIRSSP
AIRFORCE FOR HQ USAF/ASX AND ASXP
DTRA FOR OP-OS OP-OSA AND DIRECTOR
NSC FOR LOOK
DIA FOR LEA

E.O. 12958: DECL: 11/10/2019

TAGS: [KACT](#) [MARR](#) [PARM](#) [PREL](#) [RS](#) [US](#) [START](#)

SUBJECT: START FOLLOW-ON NEGOTIATIONS, GENEVA (SFO-GVA-VI):
(U) A/S GOTTEMOELLER'S MEETING WITH UKRAINIAN MFA OFFICIAL,
OCTOBER 30, 2009

Classified By: A/S Rose E. Gottemoeller, United States
START Negotiator. Reasons: 1.4(b) and (d).

¶1. (U) This is SFO-GVA-VI-052.

¶2. (U) Meeting Date: October 30, 2009
Time: 4:30 - 5:30 P.M.
Place: U.S. Mission, Geneva
Participants:

U.S.	UKRAINE
A/S Gottemoeller	Mr. Nykonenko
Amb Ries	Mr. Shenchenko
Ms. Purcell	
:	

SUMMARY

¶3. (S) At an October 30, 2009 meeting in Geneva with Assistant Secretary Gottemoeller and Ambassador Ries, Ukrainian Ministry of Foreign Affairs (MFA) official Mr. Nykonenko urged the United States to agree to begin negotiations with Ukraine on enhanced security assurances. His goal was a political, if not legally-binding, P-5 declaration specifically for Ukraine to ensure its security until it joined NATO. Gottemoeller countered that Ukraine was not facing threats alone; Ukraine's participation in NATO's Partnership for Peace and strong bilateral relationship with the United States gave it a role in the

international security fabric. Gottemoeller made clear that the United States and Russia were ready to reiterate the ongoing security assurances contained in the 1994 Budapest Memorandum for Belarus, Kazakhstan, and Ukraine.

14. (U) Subject Summary: Nykonenko Describes Ukraine's Deteriorating Security Situation; Ukrainian-Proposed Agreement on Security Assurances; Don't Forget Budapest; Budapest Means the UN and There Could Be a P-5 Veto; Ukraine Needs a Separate Declaration; and, Ukraine's Proposals.

NYKONENKO DESCRIBES UKRAINE'S
DETERIORATING SECURITY SITUATION

15. (S) On October 30, 2009, Gottemoeller and Ries met at the U.S. Mission in Geneva with Nykonenko, Director, Directorate of Arms Control and Military and Technical Cooperation, Ukrainian MFA, and Mr. Shenchenko from Ukraine's Geneva Permanent Mission. Nykonenko expressed his gratitude for the opportunity to meet Gottemoeller. The reason for his request to meet was to discuss security assurances for Ukraine.

16. (S) Nykonenko explained Ukraine's sense that it faced a deteriorating security situation. He pointed to the Russian invasion of Georgia in August 2008, the large size of Russia's Black Sea fleet located in Ukraine, and Russian pressures on Ukraine's gas supply as reasons why Ukraine needed enhanced security assurances. Ukraine was also unique in being the largest regional state not party to any military

alliance. Ukraine was on the dividing line between NATO and the Collective Security Treaty Organization (CSTO).

17. (S) Nykonenko spoke of Ukraine's concern about statements made by senior Russian officials and changes in Russia's defense law on using troops abroad and employment of nuclear weapons in local conflicts. Putin had threatened publicly that if Ukraine joined NATO, Russian missiles would target Ukraine. The President of Romania also had said that some of Ukraine's territory rightfully belonged to Romania. Ukraine had almost 2500 km of unprotected, often unmarked, borders with Russia, and over 1000 km of unprotected borders with Belarus. Russia was opposed to marking the borders. These security challenges caused tensions, giving rise to calls by some Ukrainian politicians to reacquire nuclear weapons. While this was unrealistic, it could become an issue in Ukraine's presidential campaign.

18. (S) Nykonenko continued that Ukraine needed the ability to respond to potential aggression. Reflecting its perception that there would be a security void following the expiration of START, until Ukraine was able to join NATO, Ukraine was requesting a new arrangement that would enhance security assurances for it. Nykonenko admitted he could not realistically expect legally-binding security assurances. Ukraine would be grateful for a political declaration reconfirming the commitments in the 1994 Budapest Memorandum, but it should be extended by multilateral guarantors solely to Ukraine. Ukraine believed that if the United States would agree to new security assurances, then Russia would likely agree to join in the document and, in any case, would be more cautious about pressuring Ukraine.

19. (S) Nykonenko had already consulted several times with Russian START Follow-on Head of Delegation Antonov in Geneva. Russia was not inclined to grant security assurances, since Ukraine's argument for security assurances was the need for security from Russian aggression. Nykonenko claimed, however, that the Chinese Vice President had visited Ukraine and told President Yushchenko that China was ready to begin consultations on the matter. President Yushchenko planned to send a message to the embassies of all the P-5 states on December 5 proposing talks on enhancing security assurances for Ukraine.

UKRAINIAN-PROPOSED AGREEMENT
ON SECURITY ASSURANCES

¶10. (S) Nykonenko reminded Gottemoeller that Ukraine had provided a non-paper and a draft text for a legally-binding agreement on security assurances during the semi-annual U.S.-Ukraine Non-Proliferation Working Group (NPWG) meeting on September 23-24, 2009 in Kyiv. He provided additional copies (texts provided below). Ukraine recognized that negotiations on the agreement would be lengthy, but sought to begin talks before the expiration of the START Treaty and to make that fact public. Such an announcement would itself provide a very good signal. It would show the Ukrainian public and Ukraine's neighbors that Ukraine was not left alone to deal with its problems and was an important player in Europe. Nykonenko argued that a security assurances

agreement would play an important role in enhancing European security space.

DON'T FORGET BUDAPEST

¶11. (S) Gottemoeller expressed her awareness that security assurances were an important issue for Ukraine. She recalled that the 1994 Budapest Memorandum security assurances, which she had participated in negotiating, were recognized by the United States, the United Kingdom, and the Russian Federation as an important, successful accomplishment, marking the very important decision by Ukraine to accede to the NPT and join the European security fabric. Although not a member of any alliance, Ukraine's intensive participation in the NATO Partnership for Peace (PfP) was highly appreciated and helped ensure that Ukraine did not face its security threats alone. Ukraine's PfP participation contributed to NATO and should continue.

¶12. (S) Gottemoeller emphasized that the upcoming NPT Review Conference in 2010 made this a good time to review security assurances. Security assurances deserved to be discussed in the NPT context. As Vice President Biden had said recently in Kyiv, the Budapest Memorandum did not expire with the START Treaty in December 2009. The United States, Russia, and the United Kingdom had signed it, and France and China later supported it, so Belarus, Kazakhstan, and Ukraine had received multilateral security assurances that would not expire. This was very important.

BUDAPEST MEANS THE UN AND
THERE COULD BE A P-5 VETO

¶13. (S) Gottemoeller informed Nykonenko that the United States and Russia were both ready to reiterate the Budapest Memorandum security assurances for Belarus, Kazakhstan, and Ukraine upon the expiration of START. Nykonenko said Antonov had promised to try to persuade the United States to accept a statement of some kind. Ukraine had no doubts about the U.S. commitment to the Budapest Memorandum or U.S. reliability as a partner. However, he stressed that Ukraine's situation was different from that of Belarus and Kazakhstan, since they were members of the CSTO. Ukraine needed an anchor, a mechanism to implement security assurances that was not provided by the Budapest Memorandum. He asked the United States to help persuade Russia that Ukraine needed special treatment. Gottemoeller recalled there was a consultation clause in the Budapest Memorandum. Nykonenko asserted that consultations to assist Ukraine could only occur in the UN Security Council, where any P-5 state had a veto right.

¶14. (S) Gottemoeller emphasized that the United States and Ukraine had a productive bilateral relationship, which would continue to strengthen with the arrival of new U.S.

Ambassador Tefft. Ukraine also had a strong partnership with NATO that would continue. The security situation in Europe should calm down as NATO worked with its partners and cooperated with Russia more effectively than before. Ukraine's security situation was not so unique--many

non-nuclear-weapons states (NNWS) considered they had the same needs. The NPT Review Conference should consider what the substance of security assurances should be for NNWS. Ukraine had made a powerful contribution to the NPT in removing nuclear weapons from its territory. Ukraine deserved recognition for that act, as did Belarus and Kazakhstan. Ukraine's contribution should be highlighted at the Review Conference and at the April 2010 Nuclear Security Summit in Washington. In addition, the United States and Russia were willing to reiterate the Budapest Memorandum security assurances. It was time to think about when and where to do that.

UKRAINE NEEDS A
SEPARATE DECLARATION

¶15. (S) Nykonenko requested a separate declaration just for Ukraine. Ukraine needed a new signal of solidarity from all the P-5 states, albeit less so from the United States. Gottemoeller said the request would have to be discussed in Washington. She did not see Ukraine as particularly unique. Ukraine's security was best served by interweaving with all European structures, political and security-related.

¶16. (S) Nykonenko asked whether Ukraine could publicize that the United States was beginning negotiations with it. Gottemoeller firmly replied that would be premature. Finally, Nykonenko requested another meeting with Gottemoeller, preferably in mid-November. Gottemoeller was unable to confirm her availability as yet, given her schedule of shuttling between Geneva, Washington and Moscow. At Nykonenko's request, Gottemoeller provided a brief characterization of the status of the START Follow-on negotiations following National Security Advisor General Jones' October 28-29 visit to Moscow.

¶17. (S) Nykonenko closed by proclaiming Ukraine's continuing readiness to cooperate with the United States on missile defense, despite Russia's objections. Ukraine had technical potential in this area. Gottemoeller promised to report the offer to Washington, noting she had walled herself off from missile defense issues, since the START Follow-on treaty would cover only strategic offensive arms and not defense.

UKRAINE'S PROPOSALS

¶18. (S) The text of a Ukrainian non-paper (in unofficial English, as provided by Nykonenko--no Russian language text was provided) follows.

Begin text:

On the development of the legally binding mechanism to confirm security guarantees for Ukraine since the START Treaty expires in December 2009

The expiration on December 5, 2009 of the Treaty Between the USA and the USSR on the Reduction and Limitation of Strategic Offensive Arms (START Treaty) of July 31 1991

creates ambiguity upon the further validity of the assurances in accordance with the provisions of the Trilateral statement by the Presidents of Ukraine, the USA and the Russian Federation of January 14, 1994, and the Memorandum on Security assurances in connection with Ukraine's accession to the NPT of December 5, 1994 as a non-nuclear-weapon state.

During last years Ukraine was several times close to the possibility of real use of the mechanism, envisaged by paragraph 6 of the Memorandum on Security assurances in connection with Ukraine's accession to the NPT, namely during the provocative discussion around the Tuzla island belonging and Kerch strait delimitation, in connection with the Russian "gas" pressure and after the statement of the former Russian President V. Putin concerning the redirection of the Russian missiles on the objects in Ukraine in connection with Ukraine's NATO aspirations.

Present realities, in particular the context of the last summer events in Georgia, approval on July 12, 2008 of the new Russian Foreign policy concept and on May 12, 2009 of the Russian National Security Strategy up to 2020, as well as suspended Russian participation in the CFE Treaty, create completely new geopolitical matrix for Ukraine. Today Ukraine appears to be in the midst between NATO in the West and CSTO in the North-East. We also take into consideration the Russian moratorium on implementation of the CFE Treaty obligations, which creates hypothetical threat of conventional armed forces use against Ukraine, including via the Russian Black Sea fleet in Crimea.

Analysis of these realities shows that security assurances provided to Ukraine 15 years ago can not be considered as sufficient since they are not complemented by the mechanism to guarantee in the practical way the sovereignty and territorial integrity of Ukraine.

The existing security assurances according to the "UN Charter", "CSCE Final Act" and "Memorandum on Security assurances in connection with Ukraine's accession to the NPT" envisage only the mechanism of consultations when a threat appears.

Ukrainian Side would like to draw attention to the following key aspects of such assurances.

Firstly, the immediate actions are required from the UN Security Council only if there is a threat to the peace, breach of the peace, or Ukraine becomes a victim of the aggression. According to the international law, the country could be considered as such victim only upon the UNSC decision. But any nuclear power, being the UNSC permanent member, can veto such resolution, which means that the status of victim could be formally not recognized.

Secondly, assurances are given only if Ukraine becomes a victim of an act of aggression or an object of a threat of aggression in which nuclear weapons are used. It means that if Ukraine is attacked or is threatened to be attacked by conventional weapons, no measures whatever would be required from the guarantors.

Hence it appears that, in spite of declared by the five nuclear-weapon states commitments in connection with Ukraine's accession to the NPT, as of today Ukraine as a country that does not belong to any existing system of collective security, remains face-to-face with growing threats and challenges to its independence.

Recent conflict in Caucasus has clearly proven the inability of one country to defend its sovereignty and territorial integrity by its own means against a powerful opponent. Thus Ukraine becomes the weaker link in the chain of European security.

In such circumstances, before the time to join NATO, it is vital to fill the emerging "security vacuum" by making other arrangements which we consider not the alternative to the Euro-Atlantic course of Ukraine but its strong component.

Therefore, Ukraine is seeking for support from the United States of America concerning development and adoption

of the new multilateral international legally binding document on the security guarantees for Ukraine, in connection with the START expiration. The document should be opened for signature by all P5 states parties of the Budapest Memorandum and include the clear mechanism of the guarantees implementation. We are confident that the new document will become the practical substantial development of the Ukraine-United States Charter on Strategic Partnership, signed on December 19, 2008.

Ukrainian Side considers the realization of this initiative as an important step in a spirit of the strategic character of relationship between our states in the field of global security.

End text.

¶19. (S) The text of the Ukrainian-proposed agreement (in unofficial English, as provided by Nykonenko-no Russian language text was provided) follows.

Begin text:

Draft
Agreement on Security Guaranties to Ukraine

(PREAMBLE)

(States) hereinafter referred to as the Parties to this Agreement

being the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, opened for signature in London, Moscow and Washington on July 1, 1968 (hereinafter referred to as the NPT);

desiring to contribute to the reduction of nuclear weapons and strengthening nuclear non-proliferation regime;

noting the changes in the world-wide security situation;

taking into account the fact that, according to Article 2.4 of the Charter of the United Nations, all UN Members shall refrain in their international relations from the

threat or use of force against territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations;

reaffirming the inherent right of the UN Member for individual or collective self-defense, in accordance with Article 51 of the Charter of the United Nations, until the Security Council takes action as it deems necessary in order to maintain the international peace and security;

highly appreciating the decision of Ukraine to voluntarily foreswear its nuclear weapons and to adhere to the NPT as a non-nuclear-weapon state;

taking into account complete and timely fulfillment by Ukraine of its commitments to foreswear all nuclear weapons which were on its territory;

taking into account the expiration of the Treaty between the USA and the USSR on the Reduction and Limitation of Strategic Offensive Arms of July 31, 1991;

recognizing the legitimate aspiration of Ukraine, which voluntarily foreswore its nuclear weapons, to reaffirm and strengthen its security assurances;

desiring to take effective practical steps in order to provide security to the states, which foreswear their nuclear weapons;

encouraging the states, which intend to achieve the nuclear status in the future, to deny such decision;

recognizing, that stability in the region of Central and Eastern Europe is the important constituent of global peace and security;

(states) (hereinafter referred to as States-Guarantors) and Ukraine agreed on the following:

Article I

Commitments

1. States-Guarantors reaffirm their commitment to Ukraine, in accordance with the principles of the CSCE Final Act of August 1, 1975, to respect independence, sovereignty and existing borders of Ukraine.

2. States-Guarantors shall refrain from the threat or use of force against territorial integrity, political and economic independence of Ukraine, and reaffirm that none of their weapons shall be used against Ukraine, except for the purposes of self-defence, or otherwise in accordance with the Charter of the United Nations.

3. States-Guarantors commit, in accordance with the principles of the CSCE Final Act, to refrain from economic coercion aimed to subordinate to their own interest the exercise by Ukraine of the rights inherent to its sovereignty and thus to secure advantages of any kind.

4. In case of act of aggression against Ukraine by one of States-Guarantors, or in case of a situation, threatening the territorial integrity, political and economic independence of Ukraine, the States-Guarantors undertake, at the request of Ukraine, to assign the national armed forces and facilities in order to provide assistance to Ukraine.

The number and the list of the armed forces and facilities, as well as the mechanism of providing such assistance shall be determined in the specific bilateral documents in accordance with the domestic constitutional procedures.

5. The threat or use of force against territorial integrity and inviolability of borders, or political independence of Ukraine as well as the use of economic coercion designed to subordinate to their own interest the exercise by Ukraine of the rights inherent to its sovereignty, shall be considered by Ukraine as extraordinary circumstances, which jeopardize its supreme interests.

Article II

Mechanisms

1. The Parties establish by this Agreement the Consultative Commission, which shall usually convene on the level of the permanent representatives of the Parties to the United Nations in the UN headquarters in New York.

2. The Consultative Commission shall hold regular or extraordinary consultations concerning the purposes, measures and procedures, and shall exercise control over the implementation of commitments, provided by this Agreement.

3. The regular meetings of the Consultative Commission shall be convened annually no later than January 31 of each subsequent year.

4. In case of a situation, provided in p. 2 - 4 of Article II of this Agreement, the Parties shall convene extraordinary meetings of the Advisory Commission, initiated by one of the Parties immediately after receiving the request.

5. The Consultative Commission shall be authorized to take decisions on the response to the situation, provided in

p. 2 - 4 of Article II of this Agreement.

¶6. The UN Security Council shall be immediately informed on the decisions taken at the meetings, as well as about all actions taken in response to the situation, provided in p. 2 - 4 of Article II of this Agreement, including on providing military assistance. The execution of the relevant actions shall be stopped after the UN Security Council takes necessary measures to resolve the situation, restore and maintain peace and security.

Article III

Responsibility

¶1. The Parties shall take responsibility for violation of their obligations arising from this Agreement in compliance with the rules of international law.

Article IV

Amendments

¶1. On mutual consent of the Parties the amendments and additions can be made to this Agreement.

¶2. Amendments and additions shall be adopted as separate protocols, which shall become an integral part of this Agreement and shall enter into force in the manner provided by Article VII of this Agreement.

Article V

Disputes Resolution

The Parties shall resolve the disputes, arising from interpretation and implementation of this Agreement, at the meetings of the Consultative Commission or otherwise in accordance with the international law.

Article VI

Entry into Force

¶1. This Agreement is subject to ratification by the Parties in accordance with their national legislation.

¶2. The Agreement shall enter into force on the thirtieth day after depositing the instrument of ratification by Ukraine and no less than two instruments of ratification of the other Parties to the Depository.

¶3. For any other Party the Agreement shall enter into force on the thirtieth day after depositing its instrument of ratification to the Depository.

Article VII

Withdrawal

¶1. Any Party may withdraw from this Agreement by sending a notification to the Depository. The withdrawal shall enter into force on the 180-th day after receiving the notification by the Depository.

¶2. If Ukraine withdraws from this Agreement, it expires from the moment of such withdrawal.

Article VIII

Depository

¶1. The Depository of the Agreement shall be the Government of ----.

¶2. The Depository shall notify all other Parties on:

a) the deposit of any instrument of ratification;

b) the date of entry of the Agreement into force, on any amendments and additions to it, as well as on the date of

the entry of the Agreement into force for any other Party;

c) any notification on the withdrawal from the Agreement and the date, when such withdrawal shall come into force for the Party concerned.

Done at ---- on ----" ", 2009

End text.

120. (U) Gottemoeller sends.
GRIFFITHS